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17 **UNITED STATES BANKRUPTCY COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA**  
19 **SANTA ANA DIVISION**

20 In re:

21 JOHN JEAN BRAL,

22 Debtor and Debtor-in-Possession.

23 Steward Financial LLC,

24 Plaintiff,

25 vs.

26 John Jean Bral,

27 Defendant.

28 Case No. 8:17-bk-10706-ES

29 Adv. Proc. No. 8:17-ap-01095-ES

30 Chapter 11

31 **EMERGENCY MOTION TO CONTINUE**  
32 **HEARING ON DEFENDANT'S MOTION**  
33 **FOR AN ORDER DISMISSING WITH**  
34 **PREJUDICE ALL CLAIMS FOR RELIEF**  
35 **IN THIS ADVERSARY PROCEEDING;**  
36 **DECLARATION OF GARY E. KLAUSNER**

37 Steward Financial LLC ("Steward"), hereby files this Emergency Motion for an order  
38 continuing the hearing on the *Motion For An Order Dismissing With Prejudice All Claims For*  
39 *Relief In This Adversary Proceeding* (the "Motion") filed by John Jean Bral (the "Debtor"), the  
40 Debtor and defendant herein.

1       1. A hearing on the Motion is presently scheduled for September 19, 2019.  
2 Steward's lead bankruptcy counsel, Gary E. Klausner, is involved in a case pending in  
3 Philadelphia, Pennsylvania – the Center City Healthcare bankruptcy case. Over the September 14  
4 – 15, 2019 weekend, Mr. Klausner was informed that an auction of hospital assets in that case,  
5 was moved from Wednesday, September 18, 2019, to Thursday, September 19, 2019. Mr.  
6 Klausner is the lead attorney in that case. The postponement of the auction, which was not  
7 requested by Mr. Klausner's client in that case, will make it impossible for Mr. Klausner to be in  
8 Santa Ana for the hearing on the pending Motion.

9       2. Mr. Klausner is also the lead bankruptcy attorney on behalf of the Beitler Creditors  
10 in this Chapter 11 case, including the Plaintiff in this adversary proceeding, and has been  
11 primarily responsible for the preparation of the pleadings regarding the complaint and the  
12 opposition to the Motion in this case. Mr. Klausner and his client believe that he should appear in  
13 person to present argument in connection with the Motion.

14       3. Immediately upon learning of the scheduling conflict, Mr. Klausner contacted  
15 counsel to the Debtor, and requested that he stipulate to a continuance of the hearing. Counsel for  
16 the Debtor agreed to an approximate one week continuance; however, the Court does not have  
17 any availability next week. Counsel for the Debtor also agreed to a continuance to October 3,  
18 2019, subject to the Court's availability, but unfortunately, the Court is not available at that time.

19       4. The Court's law clerk has advised counsel that November 7 is a possible date to  
20 continue the hearing on the motion to dismiss and that November 21 is definitely available. Mr.  
21 Klausner requested counsel for the Debtor to agree to a continuance to November 21 (Mr.  
22 Klausner is not available on November 7), however, as of the preparation of this Emergency  
23 Motion, the Debtor's counsel is opposed to the continuance.

24       5. Steward does not believe that the resolution of the Motion is required to take place  
25 on September 19, 2019. Indeed, there is no urgency or necessity for the Motion to be determined  
26 at any time in the near future, particularly considering that the Debtor's plan of reorganization has  
27 not yet taken effect, there are no pending distributions to creditors which would be affected by the

1 Court's ruling on the Motion, and there are no significant costs that the Debtor will incur in this  
2 adversary proceeding while the Motion is pending.<sup>1</sup>

3       6. Furthermore, Steward, along with the other Beitler Creditors, anticipate making a  
4 settlement proposal promptly after they receive materials requested from the Debtor, and a  
5 continuance will maintain the status quo and allow more time for the parties to conduct settlement  
6 discussions.

7       7. In summary, a continuance of the hearing on the Motion will not prejudice the  
8 Debtor, while Steward will suffer significant prejudice if it is not allowed to have its lead  
9 bankruptcy counsel appear personally at oral argument on the Motion. Under the circumstances,  
10 Steward and Mr. Klausner respectfully request that the hearing on the Motion be continued to  
11 November 21, 2019.

12 Dated: September 17, 2019                   LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

13  
14       By: /s/ Krikor J. Meshefjian  
15                   GARY E. KLAUSNER  
16                   KRIKOR J. MESHEFEJIAN  
17                   Attorneys for Steward Financial LLC

25       1 The Debtor's counsel has suggested that the parties submit on their briefs and vacate the  
26 hearing altogether. However, Steward believes that oral argument is necessary and appropriate  
27 in this matter because of the significant legal issues raised by the Motion and because of the  
28 arguments and additional case law cited in the Debtor's reply brief which Steward has not had  
an opportunity to address.

**DECLARATION OF GARY E. KLAUSNER**

I, Gary E. Klausner, hereby declare under penalty of perjury as follows:

1. I am a partner of Levene, Neale, Bender, Yoo & Brill L.L.P. ("LNBYB"), bankruptcy counsel to Steward Financial LLC ("Steward"). I serve as lead bankruptcy counsel to Steward in this adversary proceeding as well as in the lead chapter 11 bankruptcy case of John Jean Bral (the "Debtor").

2. I make this Declaration in support of the Emergency Motion for an order continuing the hearing on the *Motion For An Order Dismissing With Prejudice All Claims For Relief In This Adversary Proceeding* (the “Motion”) filed by John Jean Bral (the “Debtor”), the Debtor and defendant herein.

8. A hearing on the Motion is presently scheduled for September 19, 2019. I am involved in a case pending in Philadelphia, Pennsylvania – the Center City Healthcare bankruptcy case. Over the September 14 – 15, 2019 weekend, I was informed that an auction of hospital assets in that case, was moved from Wednesday, September 18, 2019, to Thursday, September 19, 2019. I am the lead attorney in that case. The postponement of the auction, which was not requested by my client in that case, will make it impossible for me to be in Santa Ana for the hearing on the pending Motion.

9. I am also the lead bankruptcy attorney on behalf of the Beitler Creditors in this Chapter 11 case, including the Plaintiff in this adversary proceeding, and I have been primarily responsible for the preparation of the pleadings regarding the complaint and the opposition to the Motion. I and my client believe that I should appear in person to present argument in connection with the Motion.

10. Immediately upon learning of the scheduling conflict, I contacted counsel to the Debtor, and requested that he stipulate to a continuance of the hearing. Counsel for the Debtor agreed to an approximate one week continuance; however, the Court does not have any availability next week. Counsel for the Debtor also agreed to a continuance to October 3, 2019, subject to the Court's availability, but unfortunately, the Court is not available at that time.

11. The Court's law clerk has advised us that November 7 is a possible date to continue the hearing on the Motion and that November 21 is definitely available. I requested counsel for the Debtor to agree to a continuance to November 21 (Mr. Klausner is not available on November 7), however, as of the preparation of the attached Emergency Motion, the Debtor's counsel is opposed to the continuance.

12. I not believe that the resolution of the Motion is required to take place on September 21, 2019. Indeed, there is no urgency or necessity for the Motion to be determined at any time in the near future, particularly considering that the Debtor’s plan of reorganization has not yet taken effect, there are no pending distributions to creditors which would be affected by the Court’s ruling on the Motion, and there are no significant costs that the Debtor will incur in this adversary proceeding while the Motion is pending.<sup>2</sup>

13. Furthermore, Steward, along with the other Beitler Creditors, anticipate making a settlement proposal promptly after they receive materials requested from the Debtor, and a continuance will maintain the status quo and allow more time for the parties to conduct settlement discussions.

14. In summary, a continuance of the hearing on the Motion will not prejudice the Debtor, while Steward will suffer significant prejudice if it is not allowed to have me – its lead bankruptcy counsel appear personally at oral argument on the Motion. Under the circumstances, I respectfully request that the hearing on the Motion be continued to November 21, 2019.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17<sup>th</sup> day of September, 2019, at Los Angeles, California.

/s/ Gary E. Klausner  
GARY E. KLAUSNER

<sup>2</sup> The Debtor's counsel has suggested that the parties submit on their briefs and vacate the hearing altogether. However, I believe that oral argument is necessary and appropriate in this matter because of the significant legal issues raised by the Motion and because of the arguments and additional case law cited in the Debtor's reply brief which we have not had an opportunity to address.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **EMERGENCY MOTION TO CONTINUE HEARING ON DEFENDANT'S MOTION FOR AN ORDER DISMISSING WITH PREJUDICE ALL CLAIMS FOR RELIEF IN THIS ADVERSARY PROCEEDING; DECLARATION OF GARY E. KLAUSNER** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **September 17, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Alan J Friedman afriedman@shbllp.com, lgauthier@shbllp.com
- Beth Gaschen bgaschen@wglip.com, kadele@wglip.com;vrosales@wglip.com;cbmeeker@gmail.com;cyoshonis@wglip.com
- Mark D Hurwitz mhurwitz@lsl-la.com, dsmall@lsl-la.com,kfinn@lsl-la.com
- Gary E Klausner gek@lnbyb.com
- William N Lobel wlobel@pszjlaw.com, nlockwood@pszjlaw.com;jokeefe@pszjlaw.com;banavim@pszjlaw.com
- Krikor J Meshefian kjm@lnbrb.com
- United States Trustee (SA) ustpreigion16.sa.ecf@usdoj.gov

2. **SERVED BY UNITED STATES MAIL**: On **September 17, 2019**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

*Service information continued on attached page*

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **September 17, 2019**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

### **SERVED BY PERSONAL DELIVERY**

Hon. Erithe A. Smith  
United States Bankruptcy Court  
411 West Fourth Street, Suite 5040 / Courtroom 5A  
Santa Ana, CA 92701-4593

*Service information continued on attached page*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

27 September 17, 2019

28 Date

Lourdes Cruz

Type Name

/s/ Lourdes Cruz

Signature